

FIRST REGULAR SESSION

SENATE BILL NO. 516

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time February 25, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

2151S.011

AN ACT

To repeal sections 165.111, 169.010, and 169.020, RSMo, and to enact in lieu thereof four new sections relating to education personnel, with a penalty provision and an emergency clause for a certain section.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 165.111, 169.010, and 169.020, RSMo, are repealed
2 and four new sections enacted in lieu thereof, to be known as sections 165.111,
3 168.218, 169.010, and 169.020, to read as follows:

165.111. 1. The school board of each district, for any year for which it
2 does not cause an audit to be performed by October thirty-first after the close of
3 the school year, shall make and publish, not later than September first, in some
4 newspaper as described in section 493.050, RSMo, published in the school district,
5 and if there is none then in some newspaper of general circulation within the
6 district, a statement of all receipts of school moneys, when and from what source
7 derived, and all expenditures, and on what account; also, the present
8 indebtedness of the district and its nature, and the rate of taxation for all
9 purposes for the year, **including the property tax rate**. The statement shall
10 be duly attested by the president and secretary of the board, and the secretary
11 shall forward a copy to the state board of education on forms prescribed by the
12 board.

13 2. **The school board of each district for any given year shall**
14 **provide a full detailed financial statement that will include the names**
15 **and total compensation packages of the district's superintendent, and**
16 **all assistant superintendents when the value of the total compensation**
17 **package exceeds one hundred thousand dollars per school year. If**
18 **consultants are hired for administrative duties, the district shall**

19 **publish the total compensation package of each consultant, and the**
20 **disclosure shall be made separate for each individual**
21 **administrator. The statement shall be forwarded to the department of**
22 **elementary and secondary education, and all the information included**
23 **in the statement required under this subsection shall be published on**
24 **the department's Internet web site.**

25 **3. For purposes of subsection 2 of this section, "total**
26 **compensation package" includes, but is not limited to, base salary,**
27 **retirement benefits, annuities, dues and club memberships, individual**
28 **or season tickets to any sporting events, amusement parks, or**
29 **community entertainment events, concerts, housing and auto**
30 **allowances, mileage reimbursements, entertainment allowances, cell**
31 **phone or personal digital assistant and service contract, deferred**
32 **compensation, buy-out clause, pay-for-performance goals, donations**
33 **from school foundations, and any other valuable consideration**
34 **provided as cash, credit, or services as a result of employment,**
35 **expressed in dollars.**

36 **4. The department of elementary and secondary education shall**
37 **create a central repository of information applicable to all**
38 **districts. The objective of the repository is to provide public access to**
39 **a complete, transparent, and comprehensive database of school district**
40 **financial and policy information, as a means of creating better public**
41 **understanding of school district operations. School districts shall**
42 **annually provide the department, as a central repository, with detailed**
43 **compensation information as required by this section.**

44 **5. The department shall establish clear standards for district**
45 **information format and detail, to ensure that all school district**
46 **submissions under this section contain all necessary information and**
47 **present the information according to consistent reporting**
48 **standards. The department shall, to the maximum extent possible,**
49 **maintain such information online and updated and shall minimize**
50 **duplication of existing reporting requirements for school districts, such**
51 **as the annual secretary of the board report under section 162.821,**
52 **RSMo, and annual school accountability report cards under section**
53 **160.522, RSMo. The department may contract with one or more entities**
54 **to create and maintain the information repository.**

55 **6. The state board of education shall not release the state aid apportioned**

56 to the district for the next ensuing school year until a copy of the required
57 statement has been received at its office in Jefferson City and has been approved
58 by it. Any school board which fails, refuses or neglects to order the statement to
59 be made, and any officer of the board who fails, refuses, or neglects to prepare,
60 publish and forward the statement, as required by this section, when ordered by
61 the board, is guilty of a misdemeanor and punishable by a fine not to exceed one
62 hundred dollars. Annual or biennial audit summaries shall be published
63 according to section 165.121.

**168.218. 1. Two or more adjacent school districts may share a
2 superintendent who possesses a valid Missouri superintendent's license
3 when at least one of the sharing districts is classified as accredited or
4 provisionally accredited by the state board of education.**

**5 2. The department of elementary and secondary education may
6 issue rules or regulations to carry out the provisions of this
7 section. Any rule or portion of a rule, as that term is defined in section
8 536.010, RSMo, that is created under the authority delegated in this
9 section shall become effective only if it complies with and is subject to
10 all of the provisions of chapter 536, RSMo, and, if applicable, section
11 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
12 and if any of the powers vested with the general assembly pursuant to
13 chapter 536, RSMo, to review, to delay the effective date, or to
14 disapprove and annul a rule are subsequently held unconstitutional,
15 then the grant of rulemaking authority and any rule proposed or
16 adopted after August 28, 2009, shall be invalid and void.**

169.010. The following words and phrases, as used in sections 169.010 to
2 169.130, unless a different meaning is plainly required by the context, shall have
3 the following meanings:

4 (1) "Accumulated contributions" shall mean the sum of the annual
5 contributions a member has made to the retirement system through deductions
6 from the member's salary, plus interest compounded annually on each year's
7 contributions from the end of the school year during which such contributions
8 were made;

9 (2) "Board" shall mean the board of trustees provided for in sections
10 169.010 to 169.130;

11 (3) "Creditable service" shall mean prior service or membership service,
12 or the sum of the two, if the member has both to the member's credit;

13 (4) "District" shall mean public school, as herein defined;

14 (5) "Employ" shall have a meaning agreeable with that herein given to
15 employer and employee;

16 (6) "Employee" shall be synonymous with the term "teacher" as the same
17 is herein defined;

18 (7) "Employer" shall mean the district that makes payment directly to the
19 teacher or employee for such person's services;

20 (8) "Final average salary" shall mean the total compensation payable to
21 a member for any three consecutive years of creditable service, as elected by the
22 member, divided by thirty-six; with the proviso that any annual compensation
23 entering into the total compensation shall not exceed twelve thousand six
24 hundred dollars for any year prior to July 1, 1967; and with the proviso that the
25 board may set a maximum percentage of increase in annual compensation from
26 one year to the next in the final average salary period. In no instance shall the
27 maximum percentage of increase in annual compensation from one year to the
28 next in the final average salary period exceed ten percent **for the**
29 **superintendent of schools or other certified central office personnel of**
30 **a school district or twenty percent for any other member.** This limit will
31 not apply to increases due to bonafide changes in position or employer increases
32 required by state statute, or districtwide salary schedule adjustments for
33 previously unrecognized education-related services;

34 (9) "Member" shall mean a person who holds membership in the
35 retirement system;

36 (10) "Membership service" shall mean service rendered by a member of
37 the retirement system after the system becomes operative, and may include a
38 period of service in the armed forces of the United States as provided for in
39 section 169.055;

40 (11) "Prior service" shall mean service rendered by a member of the
41 retirement system before the system becomes operative, and may include service
42 rendered by a member of the armed forces if the member was a teacher at the
43 time the member was inducted, for which credit has been approved by the board
44 of trustees;

45 (12) "Public school" shall mean any school conducted within the state
46 under the authority and supervision of a duly elected district or city or town
47 board of directors or board of education and the board of regents of the several
48 state teachers' colleges, or state colleges, board of trustees of the public school

49 retirement system of Missouri, and also the state of Missouri and each county
50 thereof, to the extent that the state and the several counties are employers of
51 teachers as herein designated;

52 (13) "Retirement allowance" shall mean a monthly payment for life during
53 retirement;

54 (14) "Retirement system" or "system" shall mean the public school
55 retirement system of Missouri created by sections 169.010 to 169.130;

56 (15) "Salary", "salary rate" or "compensation" shall mean the regular
57 remuneration, including any payments made pursuant to sections 168.500 to
58 168.515, RSMo, which is earned by a member as an employee of a district, but not
59 including employer-paid fringe benefits except the value of employer-paid medical
60 benefits (including dental and vision) for members, and not including
61 employer-paid medical benefits (including dental and vision) for anyone other
62 than the member, employer contributions to any deferred compensation plan,
63 consideration for agreeing to terminate employment or other nonrecurring or
64 unusual payments that are not a part of regular remuneration. The board by its
65 rules may further define salary, salary rate and compensation in a manner
66 consistent with this definition and with sections 169.010 to 169.141;

67 (16) "School year" shall mean the year from July first of one year to June
68 thirtieth of next year, inclusive, which shall also be the fiscal year of the system;

69 (17) "Teacher" shall mean any person who shall be employed by any public
70 school on a full-time basis and who shall be duly certificated under the law
71 governing the certification of teachers; any person employed in the state
72 department of elementary and secondary education or by the state board of
73 education on a full-time basis who shall be duly certificated under the law
74 governing the certification of teachers and who did not become a member of the
75 Missouri state employees' retirement system pursuant to section 104.342, RSMo;
76 and persons employed by the board of trustees of the public school retirement
77 system of Missouri on a full-time basis who shall be duly certified under the law
78 governing the certification of teachers. The term "teacher" shall be synonymous
79 with the term "employee" as defined in this section.

169.020. 1. For the purpose of providing retirement allowances and other
2 benefits for public school teachers, there is hereby created and established a
3 retirement system which shall be a body corporate, shall be under the
4 management of a board of trustees herein described, and shall be known as "The
5 Public School Retirement System of Missouri". Such system shall, by and in such

6 name, sue and be sued, transact all of its business, invest all of its funds, and
7 hold all of its cash, securities, and other property. The system so created shall
8 include all school districts in this state, except those in cities that had
9 populations of four hundred thousand or more according to the latest United
10 States decennial census, and such others as are or hereafter may be included in
11 a similar system or in similar systems established by law and made operative;
12 provided, that teachers in school districts of more than four hundred thousand
13 inhabitants who are or may become members of a local retirement system may
14 become members of this system with the same legal benefits as accrue to present
15 members of such state system on the terms and under the conditions provided for
16 in section 169.021. The system hereby established shall begin operations on the
17 first day of July next following the date upon which sections 169.010 to 169.130
18 shall take effect.

19 2. The general administration and the responsibility for the proper
20 operation of the retirement system and for making effective the provisions of
21 sections 169.010 to 169.141 are hereby vested in a board of trustees of seven
22 persons as follows: four persons to be elected as trustees by the members and
23 retired members of the public school retirement system created by sections
24 169.010 to 169.141 and the public education employee retirement system created
25 by sections 169.600 to 169.715; and three members appointed by the governor
26 with the advice and consent of the senate. The first member appointed by the
27 governor shall replace the commissioner of education for a term beginning August
28 28, 1998. The other two members shall be appointed by the governor at the time
29 each member's, who was appointed by the state board of education, term expires.

30 3. Trustees appointed and elected shall be chosen for terms of four years
31 from the first day of July next following their appointment or election, except that
32 one of the elected trustees shall be a member of the public education employee
33 retirement system and shall be initially elected for a term of three years from
34 July 1, 1991. The initial term of one other elected trustee shall commence on
35 July 1, 1992.

36 4. Trustees appointed by the governor shall be residents of school districts
37 included in the retirement system, but not employees of such districts or a state
38 employee or a state elected official. At least one trustee so appointed shall be a
39 retired member of the public school retirement system or the public education
40 employee retirement system. Three elected trustees shall be members of the
41 public school retirement system and one elected trustee shall be a member of the

42 public education employee retirement system.

43 5. The elections of the trustees shall be arranged for, managed and
44 conducted by the board of trustees of the retirement system.

45 6. If a vacancy occurs in the office of trustee, the vacancy shall be filled
46 for the unexpired term in the same manner as the office was previously filled.

47 7. Trustees of the retirement system shall serve without compensation but
48 they shall be reimbursed for expenses necessarily incurred through service on the
49 board of trustees.

50 8. Each trustee shall be commissioned by the governor, and before
51 entering upon the duties of the trustee's office, shall take and subscribe to an
52 oath or affirmation to support the Constitution of the United States, and of the
53 state of Missouri and to demean himself or herself faithfully in the trustee's
54 office. Such oath as subscribed to shall be filed in the office of secretary of state
55 of this state.

56 9. Each trustee shall be entitled to one vote in the board of trustees. Four
57 votes shall be necessary for a decision by the trustees at any meeting of the board
58 of trustees. Unless otherwise expressly provided herein, a meeting need not be
59 called or held to make any decision on a matter before the board. Each member
60 must be sent by the executive director a copy of the matter to be decided with full
61 information from the files of the board of trustees. The unanimous decision of
62 four trustees may decide the issue by signing a document declaring their decision
63 and sending such written instrument to the executive director of the board,
64 provided that no other member of the board of trustees shall send a dissenting
65 decision to the executive director of the board within fifteen days after such
66 document and information was mailed to the trustee. If any member is not in
67 agreement with four members the matter is to be passed on at a regular board
68 meeting or a special meeting called for the purpose.

69 10. The board of trustees shall elect one of their number as chairman, and
70 shall employ a full-time executive director, not one of their number, who shall be
71 the executive officer of the board. Other employees of the board shall be chosen
72 only upon the recommendation of the executive director.

73 11. The board of trustees shall employ an actuary who shall be its
74 technical advisor on matters regarding the operation of the retirement system,
75 and shall perform such duties as are essential in connection therewith, including
76 the recommendation for adoption by the board of mortality and other necessary
77 tables, and the recommendation of the level rate of contributions required for

78 operation of the system.

79 12. As soon as practicable after the establishment of the retirement
80 system, and annually thereafter, the actuary shall make a valuation of the
81 system's assets and liabilities on the basis of such tables as have been adopted.

82 13. At least once in the three-year period following the establishment of
83 the retirement system, and in each five-year period thereafter, the board of
84 trustees shall cause to be made an actuarial investigation into the mortality,
85 service, and compensation experience of the members and beneficiaries of the
86 system, and shall make any changes in the mortality, service, and other tables
87 then in use which the results of the investigation show to be necessary.

88 14. Subject to the limitations of sections 169.010 to 169.141 and 169.600
89 to 169.715, the board of trustees shall formulate and adopt rules and regulations
90 for the government of its own proceedings and for the administration of the
91 retirement system.

92 15. The board of trustees shall determine and decide all questions of
93 doubt as to what constitutes employment within the meaning of sections 169.010
94 to 169.141 and 169.600 to 169.715, the amount of benefits to be paid to members,
95 retired members, beneficiaries and survivors and the amount of contributions to
96 be paid by employer and employee. The executive director shall notify by
97 certified mail both employer and member, retired member, beneficiary or survivor
98 interested in such determination. Any member, retired member, beneficiary or
99 survivor, district or employer adversely affected by such determination, at any
100 time within thirty days after being notified of such determination, may appeal to
101 the circuit court of Cole County. Such appeal shall be tried and determined anew
102 in the circuit court and such court shall hear and consider any and all competent
103 testimony relative to the issues in the case, which may be offered by either party
104 thereto. The circuit court shall determine the rights of the parties under sections
105 169.010 to 169.141 and 169.600 to 169.715 using the same standard provided in
106 section 536.150, RSMo, and the judgment or order of such circuit court shall be
107 binding upon the parties and the board shall carry out such judgment or order
108 unless an appeal is taken from such decision of the circuit court. Appeals may
109 be had from the circuit court by the employer, member, retired member,
110 beneficiary, survivor or the board, in the manner provided by the civil code.

111 16. The board of trustees shall keep a record of all its proceedings, which
112 shall be open to public inspection. It shall prepare annually a comprehensive
113 annual financial report, the financial section of which shall be prepared in

114 accordance with applicable accounting standards and shall include the
115 independent auditor's opinion letter. The report shall also include information
116 on the actuarial status and the investments of the system. The reports shall be
117 preserved by the executive director and made available for public inspection.

118 17. The board of trustees shall provide for the maintenance of an
119 individual account with each member, setting forth such data as may be
120 necessary for a ready determination of the member's earnings, contributions, and
121 interest accumulations. It shall also collect and keep in convenient form such
122 data as shall be necessary for the preparation of the required mortality and
123 service tables and for the compilation of such other information as shall be
124 required for the valuation of the system's assets and liabilities. All individually
125 identifiable information pertaining to members, retirees, beneficiaries and
126 survivors shall be confidential **unless the individual is post-retirement,**
127 **employed as a part-time employee, consultant, or independent**
128 **contractor directly or indirectly with a public school or public college.**

129 18. The board of trustees shall meet regularly at least twice each year,
130 with the dates of such meetings to be designated in the rules and regulations
131 adopted by the board. Such other meetings as are deemed necessary may be
132 called by the chairman of the board or by any four members acting jointly.

133 19. The headquarters of the retirement system shall be in Jefferson City,
134 where suitable office space, utilities and other services and equipment necessary
135 for the operation of the system shall be provided by the board of trustees and all
136 costs shall be paid from funds of the system. All suits in which the board of
137 trustees, the board's members or employees or the retirement system established
138 by sections 169.010 to 169.141 or 169.600 to 169.715 are parties shall be brought
139 in Cole County.

140 20. The board may appoint an attorney or firm of attorneys to be the legal
141 advisor to the board and to represent the board in legal proceedings, however, if
142 the board does not make such an appointment, the attorney general shall be the
143 legal advisor of the board of trustees, and shall represent the board in all legal
144 proceedings.

145 21. The board of trustees shall arrange for adequate surety bonds covering
146 the executive director. When approved by the board, such bonds shall be
147 deposited in the office of the secretary of state of this state.

148 22. The board shall arrange for annual audits of the records and accounts
149 of the system by a firm of certified public accountants, the state auditor shall

150 review the audit of the records and accounts of the system at least once every
151 three years and shall report the results to the board of trustees and the governor.

152 23. The board by its rules may establish an interest charge to be paid by
153 the employer on any payments of contributions which are delinquent. The rate
154 charged shall not exceed the actuarially assumed rate of return on invested funds
155 of the pertinent system.

Section B. Because of the immediate need to clarify the calculation of
2 retirement benefits for members retiring under the Missouri public school
3 retirement system, the repeal and reenactment of section 169.010 of section A of
4 this act is deemed necessary for the immediate preservation of the public health,
5 welfare, peace, and safety, and is hereby declared to be an emergency act within
6 the meaning of the constitution, and section 169.010 of section A of this act shall
7 be in full force and effect upon its passage and approval.

✓

Bill

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